IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE P.N.RAVINDRAN

THURSDAY, THE 13TH DECEMBER 2007 / 22ND AGRAHAYANA 1929

WA.No. 363 of 1999(B)

AGAINST THE JUDGEMENT IN OP.10423/1992 Dated 22/05/1998
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APPELLANT/PETITIONER:

VATTAPPARAMBIL ALI MOHAMED,
S/O.SOOPY,
KALPAKAMCHERRY AMSOM,
THOZHANNUR DESOM, TIRUR TALUK,
MALAPPURAM DISTRICT.

BY ADV. SRI.K.K.MOHAMED RAVUF

RESPONDENTS/RESPONDENT:

THE TALUK LAND BOARD,
TIRUR.

BY SENIOR GOVERNMENT PLEADER SMT.MEERA.

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 13/12/2007,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & P.N.RAVINDRAN, J.

W.A.No.363 of 1999-B

Dated, this the 13th day of December, 2007

JUDGMENT

H.L.Dattu, C.J.

Aggrieved by the orders passed by the learned Single Judge in O.P.No.10423 of 1992 dated 22nd May, 1998, petitioner in the original petition has presented this writ appeal.

(2). The Taluk Land Board, Tirur had issued Ext.P4 notice, inter alia, directing the petitioner to show cause why their earlier order made in S.M.750/82 should not be re-opened in exercise of their power under Sec 85 (9A) of the Kerala Land Reforms Amendment Act, 1989 and to re-decide the matter afresh.

(3). After receipt of the notice, the petitioner had filed his reply (Ext.P5), inter alia, bringing to the notice of the Taluk Land Board, Tirur that, the omission that they are pointing out in the show cause notice was already considered by the Taluk Land Board and also by this Court, while deciding S.M.750/82.

(4). After receipt of the reply so filed, the Taluk Land Board, Tirur by its proceedings dated 28-5-1992, has rejected the explanation offered by the petitioner and has proceeded to re-open the concluded proceedings. Aggrieved by the said order, the petitioner was before this Court in O.P.No.10423 of 1992. The learned Single Judge has rejected the original petition on two grounds. Firstly, that, re-opening of the concluded proceedings is not contrary to the

provisions of the Act and secondly, if for any reason, the petitioner is aggrieved by Ext.P6 order passed by the Taluk Land Board, he can file revision petition before this Court as provided under Sec. 103 (iii) of the Kerala Land Reforms Act, 1963.

(5). Aggrieved by the afore-said findings and conclusions reached by the learned Judge, the petitioner is before us in this appeal. Sri. Mohamed Ravuf, learned counsel appearing for the appellant would contend that the learned Judge was not justified in passing the impugned order. Therefore, requests us to interfere with the orders passed by the learned Judge.

(6). In the present case, it is the opinion of the Taluk Land Board that the petitioner in the proceedings S.M.750/82 had not included a particular land for the purpose of a decision under the Act. Petitioner had filed his reply bringing to the notice of the Board the earlier orders passed in his own case and also the orders passed by this Court.

(7). The Taluk Land Board, has rejected the reply so filed by the petitioner and intended to proceed to re-open the case and thereafter passed appropriate orders.

(8). In our opinion, the petition that was filed by the petitioner was wholly premature. The learned Judge could have rejected the original petition solely on that ground itself by permitting the petitioner to urge all his contentions which are available to him including the contentions raised in this Court, before the Taluk Land Board. Without doing so, the learned Judge unnecessarily has gone into the merits of the case.

(9). We cannot sustain the reasoning of the learned Judge.

(10). However, in our opinion, the petitioner can definitely participate in the proceedings that may be held by the Taluk Land Board, Tirur and produce all documents which are available with him and also bring to the notice of the Taluk Land Board that it is wholly unnecessary to pass any fresh order in a concluded proceedings. Without doing so, the petitioner has rushed this Court. Therefore, we say that the petition filed by the petitioner is wholly premature. Accordingly, we pass the following:

ORDER

(i). The writ appeal is disposed of.

(ii). The orders passed by the learned Single Judge is set aside.

(iii). The Taluk Land Board, Tirur is permitted to proceed with SM 35/77 dated 28-5-1992.

(iv). It is made clear that the Taluk Land Board, Tirur shall not pass any orders without affording reasonable opportunity of hearing to the petitioner.

(v). Liberty is also reserved to the petitioner to produce all such records which are available with him including the documents produced along with the original petition, before the Taluk Land Board, Tirur. It is needless to say the Taluk Land Board would consider all those documents and pass appropriate orders, in accordance with law.

(vi). If for any reason, the petitioner is aggrieved by the order passed by the Taluk Land Board, he can definitely question the said order before this Court in revision as envisaged under Sec.103 (iii) of the Kerala Land Reforms Act.

(11). In view of the order passed in the appeal, C.M.P.No.901 of 1999 is closed.

Ordered accordingly.

(**H.L.DATTU)**
CHIEF JUSTICE

(P.N.RAVINDRAN)
JUDGE

MS